EDITOR'S NOTE

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(1)

Supreme Court, U.S.
FILED

Case Number: 931526 MAR 28 1994

OFFICE OF THE CLERK

IN THE UNITED STATES SUPREME COURT

OCTOBER TERM, 1993

Michael A. Nelson, Petitioner

v.

Patricia G. Nelson, Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF GEORGIA

PETITION FOR WRIT OF CERTIORARI

Respectfully submitted by:

Michael A. Nelson
3226-J Quails Lake Village Lane
Norcross, GA 30093
(404) 925-4733

April 1994

44 pp

QUESTIONS FOR REVIEW

Whether credit for Social Security disability payments for the benefit of his child should be given a father in determining his compliance with a divorce decree requiring him to make payments for the support of his child.

PARTIES TO THE PROCEEDINGS

Pursuant to the Supreme Court Rule 14.1(b), the following is a list of all parties to the proceedings in the Supreme Court of the State of Georgia:

1. Michael A. Nelson, Petitioner-Defendant
2. Honorable Robert V. Rodatus, Judge Superior Court of Gwinnett County
3. Supreme Court of the State of Georgia
4. Patricia G. Nelson, Respondent-Plaintiff
5. Robert S. Devins, Attorney for Respondent

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REPORT OF OPINIONS DELIVERED IN THE CASE

No report of opinion was delivered in this case.

STATEMENT OF JURISDICTION

Pursuant to 28 U.S.C.S. Subsection 1257(a) Supreme Court of the United States has jurisdiction to review final judgment of Supreme Court of the State of Georgia by writ of certiorari where any title, right, privilege, or immunity is specially set up or claimed under the Constitution of the United States.

CONSTITUTIONAL PROVISIONS - TEXT APPENDIX

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STATEMENT OF THE CASE

On August 5, 1992 Respondent, Patricia G. Nelson filed a complaint for divorce in the Gwinnett County Superior Court under the provisions of O.C.G.A. 19-5-3(13) (Patricia G. Nelson v. Michael A. Nelson, No. 92-A-05434-6).

On 9/21/92 pursuant to a Temporary Hearing, Superior Court entered a temporary order which granted Respondent temporary custody of the parties Minor Child, Ashley A. Nelson (the Child). In that hearing Respondent explicitly stated that she does not pray for Child support. Therefore, no Child support was granted. Pursuant to such order on 9/21/92 the parties became legally separated and Petitioner moved out of his house.

Afterwards, on December 11, 1992 Respondent filed a motion to modify the aforementioned temporary order and requested for award of child support. In the court hearing which was held on 1/20/93 Respondent

prayed for award of $400.00 Child support per month.

Consequent to that hearing, that court awarded $400.00 Child support per month to Respondent beginning February 1, 1993. Petitioner paid such Child Support directly to Respondent through the end of May of 1993.

In addition, in the divorce and custody trial which was held before the Superior Court on 5/21/93, beginning June 1, 1993 the Court awarded $430.00 Child support per month to Respondent. (See Appendix, at 7, for a copy of Final Judgment and Decree of Divorce). Petitioner paid such Child support via Support Division through August 1993.

In the interim, in January of 1993 (after legal separation from Respondent) the Petitioner filed a claim with Social Security for disability benefits. This claim was filed consequent to disabling injuries that Petitioner sustained as a

result of an automobile accident on 11/28/90. Due to such injuries the Petitioner has been disabled and is incapable of securing a gainful employment.

Afterwards, in August of 1993, Social Security Administration informed the Petitioner that his claim has been awarded. In addition, the said agency informed Respondent (custodian of the Child) that the parties' Minor Child on Petitioner's account of disability is entitled to monthly and retroactive benefits. The agency further invited Respondent to apply for such benefits, and the Respondent did so.

Consequently, parties' Minor Child on Petitioner's claim was awarded $4192.00 for the period of 1/92 - 8/93 and monthly entitlement amount of $213.00. Respondent has already received a check for the amount of $4192.00 from Social Security. In addition, since September 1993, she has received $213.00 per month from the said agency. (Beginning 1/1/94 the monthly

payments of Social Security to the parties Minor Child was increased to $219.00).

In order to determine whether the Respondent, divorced mother was entitled to any portion of the aforementioned funds paid to her for benefit of the Child, the Petitioner contacted Social Security Administration and inquired the matter.

The agency, however, informed the Petitioner that because the parties are divorced and because at the time of applying for the disability benefits parties were legally separated, the Respondent is not entitled to any portion of such funds. Based on these grounds Social Security denied to pay any benefits to Respondent on disability claim of Petitioner.

Thereafter, in September 1993, Petitioner discussed the matter with Trudy Moreland, Case Worker, Support Division of Gwinnett County. Ms. Moreland informed the Petitioner that for all the moneys paid to Respondent on the account of Petitioner's

disability, Support Division (Child Support Receiver's Office) will give him credit for Child support. Following this in September of 1993, the Petitioner stopped his monthly Child support payment to the Support Division. In addition, in order to explore the possibility of reducing the monthly Child support from $430.00 to $213.00 through the Support Division, Petitioner hand delivered a letter regarding the matter to Ms. Moreland. Following the review of this letter with her supervisor, Ms. Moreland informed the Petitioner that such matter is not at the discretion of the Support Division and should be determined by the Judge and that Support Division will initiate an action regarding Petitioner's request and that Petitioner should not be alarmed by such action.

Later, Support Division of Gwinnett County filed a lawsuit on behalf of Respondent alleging that Petitioner was in arrears in the amount of $430.00. Complaint

was served on Petitioner on 9/29/93 and the trial was held on 10/18/93. However, prior to the service of Complaint, Respondent sent a copy of the Notice Of Award from Social Security to the said case worker and acknowledged the receipts of the forgoing funds.

In the trial of 10/18/93, Support Division amended its complaint and requested for allegedly $860.00 delinquent Child Support, $25.00 sheriff fee, and $23.00 court cost (a sum of $908.00).

In the hearing of 10/18/93 the Petitioner prayed for credit toward Child support payments for the funds paid to the Respondent from Social Security as follows:

1. That Child receiving $213.00 per month from Social Security payments beginning September 1993 to be applied to Child support payments. This would reduce the monthly Child support payments to $217.00.

2. Benefits paid to Child in the amount

of $4192.00 from Social Security payments to be deposited in a bank account in Child's name and beginning September 1993 be applied to Child support on the basis of $217.00 per month until such funds are depleted.

By the order dated 10/18/93 (Appendix at 1) the trial court granted the former request of the Petitioner and denied his latter request. As grounds for such order the persiding Judge stated that the sum of $4192.00 paid to the Respondent was merely a bonus to her.

Thereafter, on 10/27/93 Petitioner filed a motion for new hearing. In this motion as part of his contentions the Petitioner argued that the order of 10/18/93 was unconstitutional.

In the new hearing which was held on 11/18/93, Support Division amended its complaint and requested for allegedly $862.00 delinquent Child Support.

In the new hearing of the case, despite the fact that the presiding judge explicitly

stated that the sum of $4192.00 was a credit toward Child support, by the order of 11/18/93 (Appendix at 3), the trial court refused to award the Petitioner credit for the sum of $4192.00 paid to the Respondent for the benefit of the Child. Orders of 10/11/93 and 11/18/93 do not make any references to the aforementioned sum ($4192.00).

On Appeal, the Petitioner filed an Application for Discretionary Appeal in the Superme Court of the State of Georgia on 12/16/93. In his Application the Petitioner again raised the issue of unconstitutionally of final judgment of the trial court and demonstrated that the said order violates the Constitution of the United States (Amendment XIV, etc.).

On or about 12/20/93 the Respondent filed her response in opposition. On 12/22/93 the Petitioner filed a Supplemental Application in the lower court regarding the issues raised in the Respondent's response.

By order of 1/3/94 (Appendix at 5) the Supreme Court of Georgia denied the Petitioner's Application for Discretionary Appeal.

Thereafter, on 1/11/94 the Petitioner filed a Motion for Reconsideration in the Supreme Court of Georgia. In that motion by presenting court cases from various jurisdiction the Petitioner demonstrated that Social Security disability benefits paid to a divorced mother for the children represents income earned by the father under Social Security Act and should be credited toward his child support obligation. (77 ALR3d, 1315).

Based on such showing, the Petitioner raised the following federal issues:

1. Order of trial court denying to grant credit for child support to Petitioner for the sum of $4192.00, paid to Respondent by Social Security "deprives the Petitioner of rights and immunities granted to him by Amendment V and XIV of the Constitution of

the United States.". Id. at 6.

2. Order of 1/3/94 of Supreme Court of Georgia denying the Application for Appeal "deprives this Petitioner of property without due process of law in violation of the Fourteenth Amendment of the United States Constitution". Id. at 6.

By the order of 1/21/93 (Appendix at 6) the lower court denied the Petitioner's Motion for Reconsideration.

Afterwards, on 1/24/94 the Petitioner filed a Notice of Appeal in the Supreme Court of Georgia.

SCOPE OF REVIEW

Order of Supreme Court of the State of Georgia denying the Petitioner's Application for Discretionary Appeal deprives the Petitioner of property without due process of law. This ruling of the lower court conflicts with its own precedent and the decisions of Supreme Courts of other States. In addition, by such ruling the lower court has decided an important question of federal Constitution which has not been, but should be settled by this Court.

A law, even though fair and constitutional on its face, may not legally be applied so as to deprive any person of rights, privileges, and immunities under the Constitution of Georgia and of the United States. Walker v. States, 220 GA. 415, 139 S.E.2d 278 (1964), rev'd on other grounds, 381 U.S. 355, 85 S.Ct. 1557, 14 L.Ed.2d 681 (1965).

ARGUMENT AND CITATION OF AUTHORITIES

Supreme Court of the State of Georgia and courts from other jurisdictions have held that Social Security disability payments received by a divorced mother for the benefit of the children represent income earned by the father under Social Security Act and should be credited toward his child support obligation. (77 ALR3d, 1315).

In Binns v. Maddox (1976) 57 Ala App 230, 327 So 2d 726, the court explained that an order of support is for the benefit of children, even though directed to be paid to the mother or other custodian, and added that if the sum directed to be paid by the father is paid by the government through social security benefits derived from the account of the father, the purpose of the order has been accomplished, and the father is entitled to be credited with such payments against his liability under

the decree. The court held that the defendant father was discharging his obligations of court-ordered payment through the payment of the social security as long as it continued.

In Cash v. Cash (1962) 234 Ark 603, 353 SW2d 348, following the retirement of the father and his application for social security benefits for himself and his son, the son began to receive benefits at the rate of $60 per month, and the father stopped making court ordered payments of $15 weekly. Reversing the decision which reduced but did not eliminate the child support payments, the court held that the father should be credited with the full amount of the social security payments, and that he should not be obligated to pay any additional amount. The court cited the analogous case of Hinton v. Hinton (1947) 211 Ark 159, 199 SW2d 591, in which the court noted that the social security payments made to the dependent son were

earned in part by the father and were not altogether a gift from the federal government.

In Horton v. Horton (1963) 219 Ga 177, 132 SE2d 200, the Court observed that social security disability payments represent money which an employee has earned during his employment and also that which his employer has paid into a common trust fund for his employee's benefit, the court said that these payments are for the purpose of replacing income lost because of the employee's inability to work upon becoming disabled, and that these payments substitute for income, and concluded that since the amount of alimony required to be paid is determined largely by income, no reason appeared why, in discharging the obligation to pay the alimony, social security disability benefits should not be credited. The court cited a case from another jurisdiction (Cash v. Cash (1962) 234 Ark 603, 353 SW2d 348) crediting retirement

benefits against a support obligation, and an earlier case within the jurisdiction (Brooks v. Brooks 204 Ga 412 (49 SE2d 881)) holding that the full amount of payment received for children under an allotment made pursuant to the Servicemen's Dependents Allowance Act should be credited toward liquidation of an alimony decree.

In Potts v. Potts (1976 Iowa) 240 NW2d 680, where social security payments to children of a disabled, divorced man began some months after the disability occurred, and the payments were greater than father's obligation under the terms of his modified divorce decree, the court determined that the father was entitled not only to credit for the period during which the social security benefits were paid but also to have the excess of payments over obligations during the benefit period credited against the arrearage which had occurred between the time of the disabling injury and the time at which the payments commenced. The courts

which allow credit for social security disability payments against the disabled parent's child support obligation reason that dependency benefits are not a mere gratuity from the federal government, but have been earned in part through the employee's payment of social security taxes, the court explained and added that the purpose of dependency benefits is to replace income lost because of the employee's disability. Under these circumstances, the court stated, it is equitable to treat dependency benefits as a substitute for child support for the period during which such benefits are paid. Ordinarily, a disabled parent should be credited for social security dependency payments only to the extent of his child support obligation during the period such benefits are paid, the court declared, adding that this will usually cover the period of disability.

In Andler v Andler (1975) 217 Kan 539, 538 P 2d 649, the court held that where a

father who has been ordered to make child support payments becomes totally and permanently disabled, and unconditional social security payments for the benefit of the minor children are paid to the divorced mother, the father is entitled to credit for such payments by the government against his liability for child support under the divorce decree. The social security disability benefits paid to the mother constituted a satisfaction of the child support obligation. The court further stated that the benefits could not be regarded as gratuitous, that the payments were received for the children as beneficiaries of an insurance policy, the premium for which has been paid by the father for the children's benefit. Noting that the purpose of Social Security is the same as that of an insurance policy with the private carrier, wherein a father insures against his possible future disability and loss of gainful employment by providing for

the fulfillment of his moral and legal obligations to his children, the court said that the United States Congress had seen fit to place the federal government in the role of insurer, and that benefits paid out by a governmental insurer under a policy of insurance for which the insured had paid premiums were no more gratuitous than benefits paid out by a private insurance company. The court cited precedent for the proposition that payments prescribed by the Social Security Act are not gratuities, and that one who has contributed part of the premiums in the form of deductions from his wages or salary has earned the benefits, and further cited that analogous situation of military benefits paid to dependents of divorced servicemen, such benefits not being considered a gratuity to the dependent children.

In Cohen v. Murphy (1975, Mass) 1975 Adv Sheets 2002, 330 NE2d 473, 77 ALR3d 1310 the court held that a father who was awarded

benefits based on total disability by the Veterans' Administration and the Social Security Administration, including benefits for his minor children, to be entitled to have those benefits credited against amounts due for child support under a divorce decree. The court further stated that in a contempt proceeding for violation of a divorce decree, ambiguities in the decree should ordinarily be resolved in favor of the alleged contemnor, and that credit should therefore have been given. The social security payments made to a dependent son were earned in part by the father himself and were not altogether a gift from the Federal Government.

In Schulze v. Jensen (1974) 191 Neb 235, 214 NW2d 591, the court determined that social security payments paid to a divorced wife for the benefit of her children, following an incapacitating auto accident suffered by the father, subsequent to the divorce, were held to have been properly

credited against the final judgment where a creditor's bill was brought to recover unpaid child support. The court said that the payments directly resulted from the father's accidental disability and in the context of the case were a substitute for his loss of earning power and his obligation to pay for the support of his dependents, and further stated that in equity it sought no difference between this situation and one in which the father had received a gift and applied it to the payment of child support.

The analysis set forth above clearly demonstrates that order of trial court not granting credit to the Petitioner for the social security payments in the sum of $4192.00 paid to the Respondent for the benefit of parties minor child is erroneous, arbitrary, and in direct conflict with the precedents of the Supreme Court of the State of Georgia and other jurisdictions. Order of trial court deprived the Petitioner of

rights and immunities granted to him by the Amendment V and XIV of the Constitution of the United States and Article I Section I Paragraph 1 of the Constitution of the State of Georgia. This paragraph (due process clause) is a safeguard against the dangers of arbitrary power. Cutsinger v. City of Atlanta, 142 GA 555, 83 S.E. 263.

Furthermore, order of 1/3/94 of the Supreme Court of Georgia denying the Application For Appeal deprives this Appellant of property without due process of law in violation of the Fourteenth Amendment of the United States Constitution. A law, even though fair and constitutional on its face, may not legally be applied so as to deprive any person of rights, privileges, and immunities under the Constitution of Georgia and of the United States. Walker v. States, 220 GA. 415, 139 S.E.2d 278 (1964), rev'd on other grounds, 381 U.S. 355, 85 S.Ct. 1557, 14 L.Ed.2d 681 (1965).

Due process of law is denied when an

arm of the State acts directly against an individual's property and deprives him of it without an opportunity to be heard. Reinertsen v Porter, 242 Ga. 624, 250 S.E.2d 475 (1978). The protective principles summed up in these due process clauses extend to every proceeding which may deprive a person of life, liberty, or property, whether the process be judicial, administrative, or executive in nature. Zachos v. Huiet, 195 Ga. 780, 25 S.E.2d 806 (1943).

CONCLUSIONS

Based on the analysis set forth above, the Petitioner prays:

(a) That the Court grant this Petition

(b) That the Court reverse the Judgment of the trial court and award accounting and credit to the Petitioner as to the Social Security disability payments in the sum of $4192.00 for his child.

Respectfully Submitted,

Mike Nelson

Michael A. Nelson
3226-J Quails Lake Village Lane
Norcross, Georgia 30093
(404) 925-4733

April 1994.

APPENDIX

SUPERIOR COURT OF GWINNETT COUNTY

STATE OF GEORGIA

SUPPORT DIVISION NUMBER 92-A-5434-6-501

PATRICIA G. NELSON, PLAINTIFF

v.

MICHAEL A. NELSON, DEFENDANT

CONTEMPT ORDER

The above styled matter came regularly before the Court for hearing on October 18th, 1993. The Defendant having been properly served appeared.

After a review of the records of the Support Division and having given the Defendant an opportunity to present evidence, the Court finds as follows:

The Defendant is in arrears in the total amount of $908.00

Defendant shall continue regular payment of $215.00 semimonthly with next payment due November 1st, 1993.

Child receiving $213.90 per month from Social Security payments to be applied to child support payments.

Credit given for $427.80 paid to recipient by Social Security.

Balance of 480.20 held en abeyance for 30 days.

Waived $48.00 court Cost.

So ordered this 18th day of October, 1993.

WALTER J. CLARKE, II

JUDGE, GWINNETT SUPERIOR COURT

I have this day received a copy of this order.

MIKE NELSON, DEFENDANT

SUPERIOR COURT OF GWINNETT COUNTY

STATE OF GEORGIA

SUPPORT DIVISION NUMBER 92-A-5434-6-501

PATRICIA G. NELSON, PLAINTIFF

v.

MICHAEL A. NELSON, DEFENDANT

CONTEMPT ORDER

The above styled matter came regularly before the Court for hearing on November 18th, 1993. The Defendant having been properly served appeared.

After a review of the records of the Support Division and having given the Defendant an opportunity to present evidence, the Court finds as follows:

The Defendant is in arrears in the total amount of $862.00.

Defendant shall make a lump sum payment of $862.00 on or before 5:00 P.M. on November 25th, 1993. All payments made between now and said date shall be credited first to any current payment then due; second to any new arrearage; third to the lump sum payment

set out in this order. Upon an affidavit being presented to the Court that said payment was not made an Order may issue that the Defendant shall be taken into custody and held until all outstanding arrears are made current.

Defendant shall continue regular payment of $215.00 semimonthly with next payment due December 1st, 1993.

Credit for $213.00 paid to recipient from Social Security for child. Remaining of $217.00 to be paid by payer.

So ordered this 18th day of November, 1993.

ROBERT V. RODATUS

JUDGE, GWINNETT SUPERIOR COURT

I have this day received a copy of this order.

MIKE NELSON, DEFENDANT

Case No. S94D0400

SUPREME COURT OF GEORGIA

ATLANTA JAN 03, 1994

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

MICHAEL A. NELSON v. PATRICIA G. NELSON

From the SUPERIOR COURT OF GWINNETT County.

Upon consideration of this Application for Discretionary Appeal, it is ordered that it be denied.

All the justices concur.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court affixed the day and year, last above written.

LYNN N. STINCHCOMB, DEPUTY CLERK.

SUPREME COURT OF GEORGIA

ATLANTA JANUARY 21, 1994

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

Case No. S9400400

MICHAEL A. NELSON v. PATRICIA G. NELSON

Upon consideration of the Motion for Reconsideration filed in this case, it is ordered that it be hereby denied.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court affixed the day and year, last above written.

SHERIE M. WELCH, CLERK.

IN THE SUPERIOR COURT OF GWINNETT COUNTY

STATE OF GEORGIA

PATRICIA G. NELSON, Plaintiff,

v.

MICHAEL A. NELSON, Defendant.

CIVIL ACTION FILE NO. 92-A-05434-6

ALSO STYLED

IN THE INTEREST OF:

ASHLEY ALEXIS NELSON

(a child)

MICHAEL A. NELSON, Petitioner.

JUVENILE DOCKET FILE NO. 93-0286-2

FINAL JUDGMENT AND DECREE

THE ABOVE STYLED MATTERS having come before this Court on its regularly scheduled no-jury trial calendar, and with the agreement of the parties to try all issues, and

AFTER HAVING heard testimony and taken other evidence,

IT IS the finding of this Court that no foundation in law or fact exists upon which

this Court should terminate the Parental Rights of Patricia Nelson.

IT IS FURTHER ORDER OF THIS COURT that,

Upon consideration of this case, and upon evidence submitted as provided by law, and the pleadings, it is the Judgment of this Court that a total divorce be granted, that is to say a divorce a **vinculo matrimonii**, between the parties to the above stated case upon legal principals, the marriage being irretrievably broken.

It is considered, ordered, and decreed by the Court that the mariage contract heretofore entered into between the parties to this case, from and after this date, be and is set aside and dissolved as fully and effectually as it no such contract had ever been made or entered into.

Plaintiff and Defendant, formerly husband and wife, in the future shall be held and considered as separate and distinct persons altogether unconnected by any nuptial union or civil contract whatsoever,

and both shall have the right to remarry.

IT IS ALSO ORDERED THAT:

1.

Custody of the minor child of the parties is vested with the Plaintiff Patricia Nelson, subject to the following rights of unsupervised visitation by the Defendant; EVERY OTHER WEEKEND from 10:00 AM Saturday until 6:00 PM Saturday and 1:00 PM Sunday until 6:00 PM Sunday.

2.

CHILD SUPPORT in the sum of FOUR HUNDRED and THIRTY DOLLARS per month is awarded to the Plaintiff for the care of the parties minor child, ASHLEY ALEXIS NELSON, each and every month until the child reaches age EIGHTEEN, marries, enters the military or otherwise becomes emancipated. Said CHILD SUPPORT shall be paid through the CHILD SUPPORT RECEIVER'S OFFICE of this county in equal monthly installments of half said amount on the FIRST AND FIFTEENTH of each month. The Plaintiff shall provide health care

insurance for the minor child from said sum.

3.

THE PROPERTY of the marriage is EQUITABLY DIVIDED as follows:

a) THE PLAINTIFF is to retain the vehicle in her possession and the DEFENDANT shall retain the vehicle in his possession.

b) THE PLAINTIFF is awarded the marital residence at 1270 Realm Lane, Lawrenceville, Georgia and the DEFENDANT shall transfer any and all interest he may have in said property by JUNE 1, 1993 by QUIT CLAIM deed. THE PLAINTIFF shall be responsible for all taxes and utilities at said location.

c) ALL SAVINGS, CHECKING ACCOUNTS AND IRAS in the respective names or the parties shall remain the property of each, respectively.

d) THE DEFENDANT shall transfer to the PLAINTIFF the sum of FOUR THOUSAND SEVEN HUNDRED and EIGHTY EIGHT DOLLARS and SIXTY CENTS in two installments of TWO THOUSAND THREE HUNDRED and NINETY FOUR DOLLARS and

THIRTY CENTS; the installments are due on the FIFTEENTH of JUNE, 1993 and the FIFTEENTH of JULY, 1993.

e) THE DEFENDANT is awarded the remaining brass pieces in the marital residence along with the remaining brass tray. All other personalty at the marital residence is awarded to the PLAINTIFF.

f) THE PARTIES are to bear their respective attorney's fees and costs of this action.

SO **ORDERED** this 3rd day of June, 1993, Lawrenceville, Gwinnett County, Georgia.

Judge Stephen E. Franzen
Gwinnett Superior Court
by designation

Prepared by:
Robert S. Devins
Attorney for Plaintiff
Ga. Bar #219950

CONSTITUTION OF THE UNITED STATES

AMENDMENT V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or

enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.

CONSTITUTION OF STATE OF GEORGIA

ARTICLE I, SECTION I, PARAGRAPH 1

No person shall be deprived of life, liberty, or property except by due process of law.